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April 10, 2017

VIA ELECTRONIC MAIL

Lloyd W. Coward
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Room 4-C330
Washington, DC, 20554

Re: Response to Freedom of Information Act Request

Dear Mr. Coward:

Progeny LMS, LLC ("Progeny"), through its counsel and pursuant to Section 0.461(d)(3) of the Commission's rules, hereby partially opposes the Freedom of Information Act ("FOIA") request that was filed on March 17, 2017 by PCS Partners, L.P. ("PCSP") seeking access to the Progress Report that the Mobility Division ("Division") required Progeny to file with the Commission on March 1, 2017.[1]

To facilitate prompt resolution of this matter, Progeny has voluntarily agreed to submit a new version of its Progress Report as an attachment to this letter that redacts substantially less material than in its original submission. Progeny herein opposes any further disclosure of the substance of its Progress Report for the reasons stated herein.

The materials for which Progeny continues to seek confidential treatment fall into three categories. First, Progeny seeks confidential treatment for its disclosures regarding the proprietary technology that Progeny is using in its M-LMS network, aspects of which constitute trade secrets. Such details are reflected in Sections 1, 3 and 4 of Progeny's Progress Report and are routinely entitled to confidential treatment by the Commission pursuant to Sections 0.457 and 0.459 of the Commission's rules.

[1] *See* Request of Progeny LMS, LLC for Waiver and Limited Extension of Time, WT Docket No. 12-202, *Order*, DA 17-20, ¶ 35 (WTB, Mobility Div., Jan. 17, 2017) ("*Order*").

Second, Progeny seeks confidential treatment for its disclosed details about its work with suppliers and vendors, including the specific activities being undertaken to commercialize Progeny's technology. Such details are reflected in Sections 1 and 2 of Progeny's Progress Report and constitute the types of information that are routinely granted confidential treatment by the Commission pursuant to Section 0.459 of the Commission's rules.

Third, Progeny seeks confidential treatment for its disclosures regarding Progeny's activities with potential customers for its M-LMS service, including potential commercial and governmental customers. Such details are reflected in Progeny's Progress Report in Sections 2 and 3 (commercial customers) and in Section 4 (governmental customers). Disclosures regarding a company's customers and its confidential arrangements with those customers constitute the types of information that are routinely granted confidential treatment by the Commission pursuant to Section 0.459 of the Commission's rules.

Progeny's request for confidential treatment included specific reasons why confidential treatment is warranted for the redacted portions of Progeny's Progress Report and those reasons provided clear justification under Sections 0.457 and 0.459 of the Commission's rules. Therefore, no basis exists for PCSP to argue that Progeny engaged in "broad-brush, generic assertions of entitlement" to justify its request.[2] As PCSP does not dispute, the market for wireless location services has recently become extremely competitive as a result of the Commission's adoption of its Indoor Location Order in 2015. Currently, multiple vendors of location services are competing vigorously against each other to secure commercial agreements with the major wireless carriers to provide the location services that the carriers will use to comply with the Commission's new wireless location rules.

In order to maintain a competitive advantage in this competition, Progeny has developed proprietary technology using trade secrets that has been demonstrated in multiple independently-run tests to produce indoor location accuracy results (including vertical location information) that are far more accurate than can be achieved using other existing technologies. The details of Progeny's proprietary technology warrant protection from disclosure under the Freedom of Information Act ("FOIA") as "trade secrets and commercial or financial information obtained from a person and privileged or confidential."[3] Further, Progeny would be substantially harmed by the release of such information because it could eliminate its competitive advantage in this highly competitive market.

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[2] *See* PCS Partners, L.P., Opposition to Request for Confidential Treatment, at 2 (dated March 17, 2017).

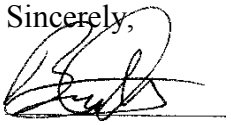
[3] *See* 5 U.S.C. § 552(b)(4).

Second, Progeny is competing with other vendors of indoor location services both in the identification of vendors for its indoor location equipment (such as end user handsets and their components) and in securing both commercial and governmental customers for its highly accurate indoor location services. Progeny's substantial efforts in this regard would be harmed if competing providers of indoor location services identified the parties that Progeny is negotiating with and attempted to intervene in (or duplicate) those discussions to their advantage. To this end, Progeny acknowledges that AT&T and Verizon have both stated publicly that they have evaluated Progeny's indoor location technology and have conducted testing with it.[4] The current status of Progeny's efforts with its potential carrier customers, however, remains highly confidential and subject to nondisclosure agreements between the parties.

Third, Progeny has also been in discussions with certain Federal agencies regarding potential uses of Progeny's highly accurate location service that do not relate directly with enhancing the accuracy of location information associated with wireless calls to E911 emergency services. These efforts are highly confidential because their disclosure could prompt competing providers of wireless location services to seek to intervene or duplicate Progeny's efforts to Progeny's commercial disadvantage. Further, certain of the potential government uses under discussion invoke issues of homeland security.

For the foregoing reasons, Progeny respectfully request that the attached Progress Report, as alternatively redacted, be granted confidential status and be withheld from public inspection.

Sincerely,



Bruce A. Olcott
Counsel to Progeny LMS, LLC

Copy: A. Johnston, Counsel to PCSP
M. Conway, FCC Mobility Division

[4] *See* PCS Partners, L.P., Opposition to Request for Confidential Treatment, at 2-3 (dated March 17, 2017).

First Progress Report of Progeny LMS, LLC

WT Docket No. 12-202

March 1, 2017

The following is a report on the advances that Progeny and affiliated entities (the "Company") has made in bringing its authorized M-LMS spectrum to full commercialization to support emergency location services. This progress report includes developments in independent industry testing of the technology, chipset and handset commercialization, and ongoing public safety and wireless carrier efforts regarding technology implementation.

1. **A demonstration of its substantial progress toward bringing compatible handsets to market.**

The Company has been working with and continues to work with [redacted] which supports Metropolitan Beacon Service ("MBS") capabilities. Commercial chipsets are anticipated to become available [redacted] to support subsequent handset implementation.

The Company and supportive wireless carriers have also been in discussion with multiple handset manufacturers to add MBS support to existing GPS functionality in their handsets. [redacted] was used during the recently completed Stage 2 CTIA Test Bed, discussed further below. [redacted]

2. **Identification of the carrier(s) Progeny will provide service to and a detailed plan for site deployment, testing, and activation in each license area.**

The Company has been [redacted] in the testing and development of its MBS technology. The Company worked with [redacted] in the testing of its MBS technology in the CTIA/ATIS Stage 2 Test Bed, discussed below. The Company is also working with [redacted]

The Company has not yet begun working with the major wireless carriers on a detailed plan for site deployment and activation in each license area. As the Company has repeatedly indicated, the Company anticipates that the major wireless carriers will not require the use of the Company's MBS technology until they are preparing to achieve compliance with the

Commission's fifth year milestone, at which time wireless carriers are required to provide either a dispatchable address solution or an x/y-axis location of within 50 meters for 70 percent of all wireless 911 calls.

3. **The date on which it commenced testing in the Indoor Location Accuracy Test Bed and, if applicable, the date testing was completed and certification was received from the Test Bed Administrator.**

The Company's MBS technology was positively tested in the CTIA/ATIS E-9-1-1 Location Accuracy Test Bed Stage 2 in San Francisco, CA starting October 17, 2016 and ending November 19, 2016. The Company received a preliminary report on MBS performance from the CTIA Test Bed LLC in December 2016 and a final report regarding MBS performance on February 3, 2017.

Testing of the MBS technology in the CTIA/ATIS Stage 2 Test Bed was completed in coordination [redacted]. The testing process at each test point involved 100 'Warm Start' test calls from each device. [redacted] was used as the test device. This handset supports UE-Assisted, Network-based MBS+GPS positions, operating on each of the participating carriers' LTE networks.

Detailed performance results from the Test Bed are currently under the control of the CTIA Test Bed and various confidentiality agreements. On an aggregate basis, however, results across all Suburban, Urban and Dense Urban test points validated that MBS performance exceeded all current and future milestones from the Commission's Indoor Location Order (substantially less than 50 meters at the 80th percentile of test calls for horizontal accuracy and substantially less than 3 meters at the 80th percentile of test calls for vertical accuracy – public safety desired metric). MBS yield (percent of fixes achieved versus total test calls) was in excess of 99 percent.

4. **Other information relevant to the development of the Company's wireless location service**

[redacted]

The Company provided [redacted] for its MBS indoor location technology during [redacted] MBS potential to achieve this objective was highlighted [redacted] specifically towards the ability to [redacted] particularly indoors in urban environments.

[redacted]

Because the Company's MBS beacons [redacted] MBS can also serve as [redacted]

[redacted] Developments are underway to facilitate [redacted] In addition to the highly precise MBS network, the availability of mass market end user [redacted]

[redacted] and MBS networks were identified as one of the potential solutions. [redacted]